TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 1441 – SB 1646

February 22, 2014

SUMMARY OF BILL: Authorizes the Division of Workers' Compensation (DWC) to use any revenue remaining in the Uninsured Employers Fund (UEF) to provide temporary disability and medical benefits to any eligible employee who suffers an injury arising primarily within the course and scope of the employee's employment with an employer who has failed to secure the payment for workers' compensation at the time the employee suffered the injury. Authorizes the chief administrative officer of DWC, in his or her discretion, to withdraw up to 25 percent of the funds remaining in the Misclassification Education and Enforcement Fund (MEAEF), after costs and expenditures of the MEAEF have been satisfied, when the balance in the UEF is less than the amount of funds needed to provide temporary disability and medical benefits to any such eligible employees. Authorizes the administrator to place a lien on the assets of such employers and to pursue a recovery action under certain circumstances. Establishes qualifying criteria for injured workers to be eligible for payments, and further establishes that no such payment of benefits will occur before July 1, 2015. Establishes limits for medical benefit payments and for temporary disability benefit payments.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Net Impact -
$1,074,500/FY15-16/Uninsured Employers Fund
$1,230,600/FY16-17/Uninsured Employers Fund
$1,235,000/FY17-18 and Subsequent Years/Uninsured Employers Fund

Other Fiscal Impact – In any fiscal year, beginning in FY17-18, where the chief administrator would exercise granted authority to withdraw funds from the Misclassification Education and Enforcement Fund (the Fund), the increase in state expenditures from the Fund is reasonably estimated to exceed $100,000.

There is $97,000 of funding for this bill in Governor's proposed budget document for FY14-15.

Assumptions:

- No impact to state General Fund.

- No impact to state or local government in FY14-15.
- According to DWC, the provisions of this bill are not expected to materially impact the division to the extent additional positions will be necessary. Therefore, no increase in state expenditures as a result of new positions.
- According to the DWC, the balance in the UEF was approximately $987,700 as of June 30, 2013.
- DWC estimates net new revenue to the UEF of approximately $400,000 during FY13-14 under current law. Based on information provided by DWC, no benefit payments will be made from the UEF in FY13-14. Therefore, an estimated year-end balance of $1,387,700 ($987,700 + $400,000) in the UEF as of June 30, 2014 under current law.
- DWC estimates net new revenue to the UEF of approximately $440,000 during FY14-15 under current law. Based on information provided by DWC, no benefit payments will be made from the UEF in FY14-15. Therefore, an estimated year-end balance of $1,827,700 ($1,387,700 + $440,000) in the UEF as of June 30, 2015 under current law.
- DWC estimates net new revenue to the UEF of approximately $440,000 during FY15-16 under current law. DWC projects new benefit payments of $1,131,016 will be paid from the UEF during FY15-16 as a result of this bill. Such projected benefit payments are based on the following assumptions: the average claim will be approximately $33,000; the number of claims will be approximately 39; and total projected benefit payments will be discounted by approximately 12.12 percent as a result of voluntary payment of benefits. Therefore, an increase in state expenditures of $1,131,016 [$33,000 x 39 x (100.00% - 12.12%)] from the UEF in FY15-16.
- Following new revenue of $440,000 and new benefit payments of $1,131,016, the end-year balance of the UEF is estimated to be $1,136,684 ($1,827,700 + $440,000 - $1,131,016) as of June 30, 2016 under the provisions of the bill.
- DWC estimates net new revenue to the UEF of approximately $500,000 during FY16-17 under current law. DWC projects additional benefit payments of $1,295,400 will be paid from the UEF during FY16-17 as a result of this bill. Such projected payments are based on the following assumptions: the average claim will be approximately $33,000; the number of claims will be approximately 44; and total projected benefit payments will be discounted by approximately 10.79 percent for voluntary payment of benefits. Therefore, an increase in state expenditures of $1,295,329 [$33,000 x 44 x (100.00% - 10.79%)] from the UEF in FY16-17.
- Following new revenue of $500,000 and additional benefit payments of $1,295,329, the end-year balance of the UEF is estimated to be $341,355 ($1,136,684 + $500,000 - $1,295,329) as of June 30, 2017 under the provisions of the bill.
- According to DWC, revenue to the UEF is expected to increase significantly in FY17-18 and in subsequent years as a result of additional investigators having been employed and new fraud detection software occurring as a result of enacted legislation from the 2013 legislative session. According to DWC, this additional revenue is anticipated to alleviate the need to withdraw money from the MEAEF. Further, DWC indicates that the likelihood of withdrawing funds from the MEAEF prior to FY17-18 is negligible. However, in any fiscal year, beginning with FY17-18, where the chief administrator would exercise granted authority to withdraw funds from the MEAEF, the increase in

state expenditures from MEAEF is reasonably estimated to exceed $100,000. Otherwise, the recurring increase in state expenditures from the UEF is reasonably estimated to average $1,300,000 per year beginning in FY17-18.

- Any increase in state revenue derived from the DWC placing liens on employers' assets or from pursuing recovery actions is dependent upon several unknown factors such as the extent to which employers will reorganize as a result of a potential recovery action being brought against them, the extent to which ownership of assets would be transferred in anticipation of a recovery action, the extent to which any recovery action is successful, and the extent of any amounts recovered. Given these unknown factors, determining a precise estimate for increased revenue to the UEF is difficult. However, and based on information provided by DWC, it is reasonably estimated that an amount equal to five percent of the amounts paid as benefits to claimants will be recoverable. Therefore, the increase in state revenue to the UEF is reasonably estimated to be $56,551 ($1,131,016 x 5.0%) in FY15-16; $64,766 ($1,295,329 x 5.0%) in FY16-17; and $65,000 ($1,300,000 x 5.0%) in FY17-18 and subsequent years.
- Given the increased revenue pursuant to successful recoverable actions, the net increase in state expenditures from the UEF is estimated to be $1,074,465 ($1,131,016 - $56,551) in FY15-16; $1,230,563 ($1,295,329 - $64,766) in FY16-17; and $1,235,000 ($1,300,000 - $65,000) in FY17-18 and subsequent years.
- Funding equal to $97,000 is included in the Governor's proposed budget document for FY14-15 (pages A-44 and B-288). However, the Department of Finance and Administration has indicated this will be amended out of the FY14-15 budget as part of the appropriations amendment for FY14-15 given that no impact will occur until FY15-16.

IMPACT TO COMMERCE:

Other Commerce Impact – The impact to commerce is considered positive, but not quantifiable, because the extent of benefit payments made to claimants that would ultimately be spent in the economy is unknown.

Jobs Impact – Not Significant

Assumptions:

- The impact to commerce is expected to be positive given that additional benefits paid will be an increase to the disposable income for claimants. However, it is unclear as to how much of this money will be spent in the economy because the majority of it could be used to pay unpaid medical bills. As a result, the impact to commerce is considered positive, but not quantifiable.
- Any impact to Tennessee jobs as a result of this bill is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Lucian D. Geise, Executive Director

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